

Small Business Economic Impact Statement

Chapter 246-72 WAC

A Rule Concerning Medical Marijuana
Consultant Certification.

December 7, 2021

SECTION 1:

Describe the proposed rule, including: a brief history of the issue; an explanation of why the proposed rule is needed; and a brief description of the probable compliance requirements and the kinds of professional services that a small business is likely to need in order to comply with the proposed rule.

In response to a rule petition, the department is proposing amendments to portions of the chapter regarding continuing education (CE) for certified consultants. This includes a possible two hour required course provided by the department, consideration of self-study programs, and clarifying specific topics to be included in each training.

Additionally, the department is proposing amendments to chapter 246-72 WAC to clarify the following:

- Terms such as “designated provider” and “qualifying patient”
- Practice parameters of a certified consultant (e.g., assisting medical marijuana cardholders with their purchases)
- Education and other requirements to be an instructor of an initial consultant training course
- Correcting citations and other house-keeping items

The overall goal of this proposal is to ensure certified consultants have a solid understanding of their role and knowledge of industry regulations, rules, and laws in order to ensure accurate information is being shared on the front end with the qualifying patients, designated providers, and consumers they are assisting.

SECTION 2:

Identify which businesses are required to comply with the proposed rule using the North American Industry Classification System (NAICS) codes and what the minor cost thresholds are.

Table A:

NAICS Code (4, 5 or 6 digit)	NAICS Business Description	# of businesses in WA	Minor Cost Threshold = 1% of Average Annual Payroll	Minor Cost Threshold = .3% of Average Annual Receipts
611710	Educational support services	1,220	\$3,009.92	\$1,185.90

SECTION 3:

Analyze the probable cost of compliance. Identify the probable costs to comply with the proposed rule, including: cost of equipment, supplies, labor, professional services and increased administrative costs; and whether compliance with the proposed rule will cause businesses to lose sales or revenue.

1. Amending WAC 246-72-100 – Continuing Education

Description of the proposed rule: A medical marijuana consultant certificate holder must complete 10 hours of continuing education in order to renew their annual certification. The proposed rule amendments require two of the 10 hours be provided by the department at no cost to the consultant. Topics may include cannabis compliant products, cannabis laws and rules, and consultant roles and responsibilities. For the remaining eight hours of required continuing education, the proposed rule adds self-study to in-person and distance learning as another method to obtain hours. Self-study would be limited to two hours of the total 10 required hours.

Cost: There are no anticipated additional costs imposed by the rule proposal. There are potential cost savings for the certified consultants. The two-hour training program offered by the department and required as part of the annual continuing education will be provided at no cost to the consultant and would only require the consultant's time. The same is true for the two hours of self-study, which would be at no anticipated additional cost but a potential cost savings to the consultant and would only require the consultant's time.

2. Amending WAC 246-72-110 – Training program requirements

Description of the proposed rule: Medical marijuana consultant training programs go through an approval process administered by the department. The proposed rule clarifies the minimum level of subject matter to be included in the five hours of training dedicated to Washington State laws and rules. These include purchase and possession limits, pesticide use, medical marijuana authorization process, and labeling and testing requirements. The proposed rule amendment specifies that the department must be notified if an instructor of a training course is placed on a disciplinary order. Also, the proposal expands the list of potential instructors to include those with a bachelor's degree and at least seven years of verified experience in the regulated cannabis industry.

Cost: The proposed rule is anticipated to have a cost impact to the state-approved training programs. We contacted the 3 state-approved training programs about potential costs to them due to amending this rule. Two of the three training programs indicated they will only need one to two hours of staff time to update references and make small adjustments. The department estimates that staff are making \$43.27 per hour¹ and therefore the anticipated one-time costs range from \$43.27 to \$86.54. One-time cost is defined as a cost that will occur only once and

¹ Job posting for a training program director found on 11/18/2021 at the following website: [Cannabis Industry Manager Jobs, Employment in Washington State | Indeed.com](#)

will not be repeated. One of the three training programs indicated that they will hire an attorney at a rate of \$200 per hour for an anticipated eight hours to make the changes required for compliance with the proposed rule. This training program indicated the proposed rule may cost \$1,600 for compliance. While this business may choose to hire professional services, the rule amendments do not require a training program to hire an attorney to make the proposed changes.

3. Amending WAC 246-72-120 – Approval of training program.

Description of the proposed rule: The proposed rule would require an authorized representative from the state-approved medical marijuana consultant training programs to report any change of the instructor's credential to the department.

Cost: The proposed rule will have no anticipated cost impact to the initial training programs. A representative from the training programs is already required to report any changes from their initial application to the department and the proposed rule change only adds one additional item that would need to be reported should a change in the instructor's license status occur.

Cost Summary: Due to amending training program requirements in WAC 246-72-110, the department anticipates labor costs will be necessary from state-approved training programs to comply with the proposed rule. Two of the three existing state approved medical marijuana consultant training programs have indicated the updates should take just a few hours of the program staff's time (total cost per program \$43.27 to \$86.54), and one training program has indicated they would hire an attorney who charges an hourly rate of \$200 per hour, for a total of 8 hours (total cost per program \$1,600) to make the updates to the training program, in order to comply with the amendments.

SECTION 4:

Analyze whether the proposed rule may impose more than minor costs on businesses in the industry.

Based on the analysis in section 3, out of the 3 existing state-approved programs, one program provided estimates that the cost to comply to the amended rules (\$1,600) would impose more than minor-costs (\$1,186) on businesses.

The proposed rules clarify which topics are required under the five hours of Washington State laws and rules that already exist in rule. Two of the three programs have indicated they already include the proposed topics, they would just want to re-organize the content to ensure they are clearly meeting the proposed new requirements. One of the three businesses (the business that falls above the minor-cost threshold) indicated they will hire an attorney to make the changes required in the proposed rule. While this business may choose to hire professional services, the rule amendments do not require a training program to hire an attorney to make the proposed changes.

SECTION 5:

Determine whether the proposed rule may have a disproportionate impact on small businesses as compared to the 10 percent of businesses that are the largest businesses required to comply with the proposed rule.

Based on the analysis from section 3, this would not create a disproportionate impact on smaller businesses because larger businesses in the industry do not exist at this time. The entire industry in Washington State of medical marijuana consultant training programs consists of the three small businesses that we surveyed.

SECTION 6:

If the proposed rule has a disproportionate impact on small businesses, identify the steps taken to reduce the costs of the rule on small businesses. If the costs can not be reduced provide a clear explanation of why.

The proposed rule does not have a disproportionate impact on small businesses because there are no large businesses to compare the impact of the smaller businesses against.

SECTION 7:

Describe how small businesses were involved in the development of the proposed rule.

These three training programs were involved in the development of the proposed rule throughout the process. Department staff worked closely with interested parties to collect input that informs rule revisions concerning the medical marijuana consultant certification program. Mutual interests were identified and considered through deliberations.

SECTION 8:

Identify the estimated number of jobs that will be created or lost as the result of compliance with the proposed rule.

It is not estimated that any jobs will be lost or created as a result of compliance with the proposed rule. The scope of this rule is small and would not necessitate a full-time-employee to implement or maintain changes needed to their programs. This would be a maximum of 8 hours total to implement the changes through the proposed rules.